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CONSIDERATIONS

ON THE

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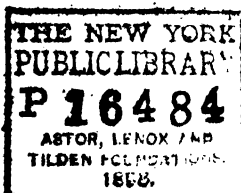
I R E L A N D.

[By William Knox.]

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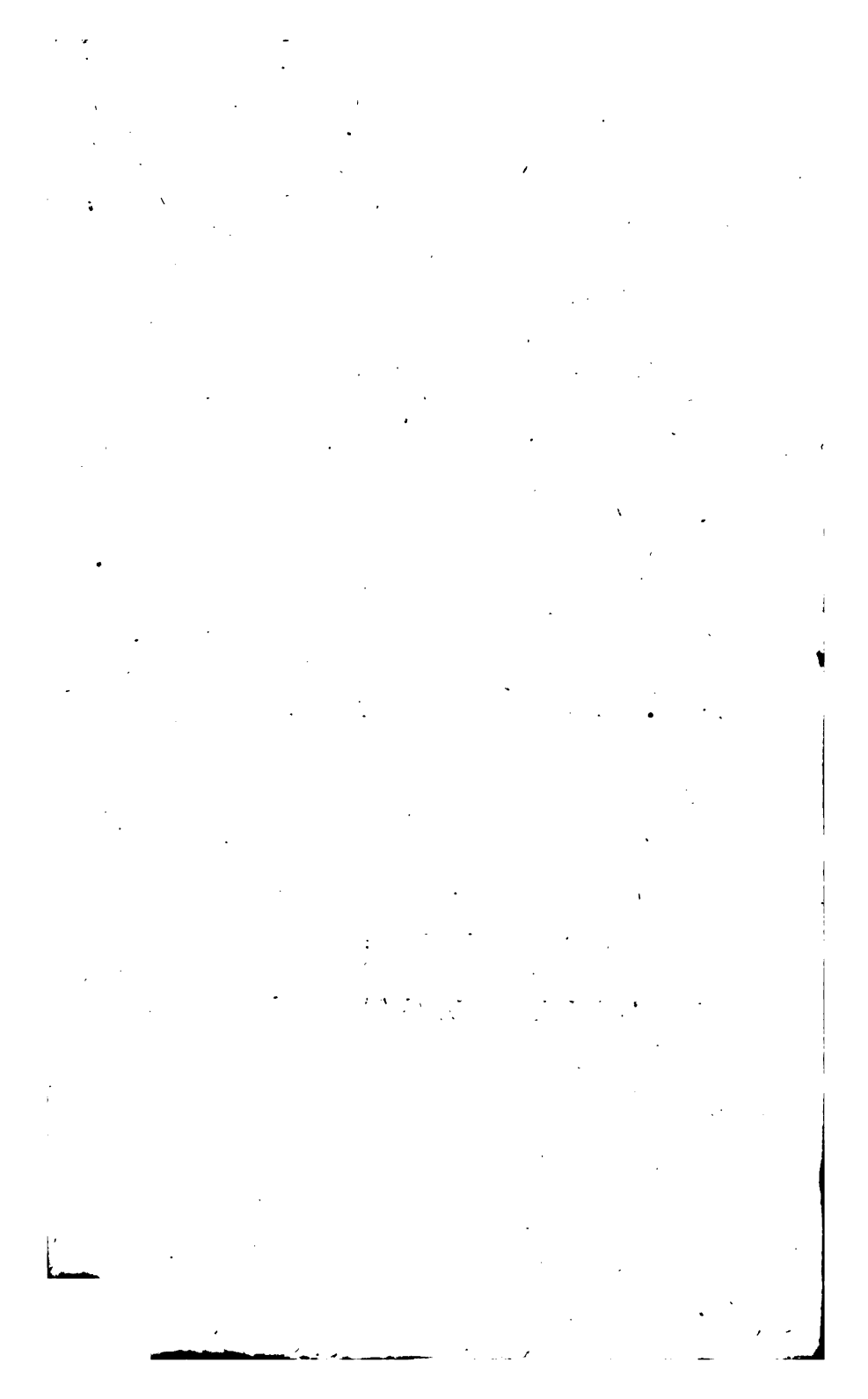
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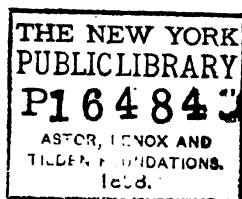
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(Knox)





INTRODUCTION.

IT is the common misfortune of all dependencies of Great Empires, that such of their citizens as are able to make their way to administration, seldom return to their native province, or bring the knowledge or influence they have acquired to its service. No country feels this misfortune more sensibly than Ireland; for notwithstanding it is no more

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than

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than a member of the British empire, its constitution partakes so much of a separate state, that almost the whole of its polity is left to the arrangement of its own domestic government ; besides the aptness of men, removed to a distance from the seat of empire, to be swayed by early prejudices or local attachments, their best calculated projects for promoting the particular interest of their country must ever run the hazard of being defeated, by clashing with the particular interest of some other member, or interfering with the general
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and combined interests of the whole.

To the want of a knowledge of the general and combined interest of the empire, in those who have had the direction of the affairs in Ireland since the Revolution, may in a great measure be ascribed the slow progress Ireland has made in population, cultivation, commerce, and wealth, compared with other parts of the British dominions.

It is not my present purpose to point out instances in proof of
of

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of this assertion, but there is one so striking and obvious, that I cannot help mentioning it.

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whole part*
In the 19th year of the reign of James the 1st. the whole number of white inhabitants in ~~all~~ the British colonies in North America amounted to no more than 4000, at which time Ireland contained a million; yet with such a prodigious start we have seen Ireland, in a little more than a century, overtaken by America, and in some particulars surpassed; for it is beyond controversy, that until her late imprudence in exciting the jealousy,

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jealousy, and provoking the resentment of Great Britain, British America was nearly as populous as Ireland; her people were better fed, better clothed, better lodged, and more happy; she had more shipping, more trade, and more credit; and during the whole time laboured under more restraints from English laws than Ireland did, with soil much less fertile, and a climate neither so temperate or salutary. But altho' the continual migrations of the people might have shewn our rulers that there was something doing in America,

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rica, that made Irishmen prefer it to their own country; it never occurred to them to enquire what that was. No member of the Irish legislature ever thought of reading a colony act of assembly, or looking into their constitutions or forms of government, or acquiring a knowledge of the nature of their trade, the regulations it was subject to, or the privileges they enjoyed; and it would not be hazarding much to affirm, that not a single volume of the laws of any one of the seventeen colonies on the continent is, or ever was,

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was, in the possession of any member of the Irish house of commons.

The author of the following sheets is a native of Ireland ; and, altho' he has been many years engaged in the public service in other parts of the British dominions, he has not forgot what he owes to the country from whence he derived his birth, and where he received those principles that have supported him at all times, and carried him through a variety of situations, without reproach ; and he thinks
he

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he cannot better discharge his duty to his parent country, and to the empire at large, than by bringing to the public stock of Ireland whatever knowledge the many means of information may have enabled him to acquire.

His first object is to endeavour to lead his countrymen to reflect upon their own condition as a people, to investigate the constitution of their government and the nature of their connexion with England; and in doing this, he intreats them to divest themselves as much as possible of
of

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of their early prejudices ; to enquire before they form their opinion, and to overcome that self-sufficiency under which pride and indolence always, and not seldom ignorance, take shelter, and incline even to take that upon trust from others, the truth of which they ought to have examined themselves.

What is now laid before them will, he hopes, call up their attention, and turn their thoughts into a right channel. He intends to wait its effects, before he proceeds to offer any propositions,

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tions, respecting either the external connexions or internal polity of Ireland ; but he pledges himself to his countrymen, to bring forward, in due time, some of importance in each class.

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CONSIDERATIONS

ON THE

STATE OF IRELAND.

THE end and purpose of all government being the advantage, safety, and happiness of the Community, the general discontent of the people is at all times an argument of a defective constitution, or of misconduct in those to whom the Administration is committed: when the latter is the case, a change of ministers will probably prove a remedy; but if the mischief lies deeper, and
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has its source in the constitution itself, a change of ministers will only serve to increase the public ill humour, and by exciting hopes which cannot be gratified, add the resentment of disappointment to the anguish of former grievances. It seems therefore highly proper to enquire into the nature of our public evils, and to trace them to their fountain before any method of redressing them is propounded; for, until we have a fair view of the disease, we shall not be able to judge of the probable effects of the regimen that may be offered for our relief.

Without going back further than our memory will serve us, we shall find such diversity in the characters of our several chief governors, and variety in the measures of their administration

ministrations, as strongly to incline us to suppose that they would not *all* have failed as they did in giving content to the people, were it in the power of any chief governor to give it. We execrate the subtle Lord Carteret for aiming to deprive us of the advantages of biennial sessions of parliament; and we are not better pleased with the undefigning Lord Townshend who has secured and improved that privilege by an octennial election; we accuse Lord Chesterfield of sapping the foundation of the Irish interest in parliament; and we censure Lord Harrington for putting himself into the hands of the aristocracy, and consenting to their violent and arbitrary attempts upon the freedom of our elections. The Duke of Dorset is never to be forgiven

for opening a new channel of circulation for the king's favours, and it seems to be the great grievance of the present hour (*a*) that the hands through which they then passed are no longer employed in distributing them. The Duke of Devonshire is blamed for effecting an union of the contending parties; and that he governed by a faction, is one of the crimes of the Duke of Bedford, and whilst the unaccommodating pride of the latter nobleman is recollected with disgust, the facility and politeness of Lord Halifax is branded with the epithets of falshood and insincerity. In short, splendor and magnificence is useless profusion in Lord Northumberland, and an attention to domestic œconomy

(*a*) This paper was written in the year 1772.

œconomy miserable parsimony in Lord Hertford. A large redundance of public treasure had well nigh undone the kingdom in 1753, and an increase of its domestic expences have brought it to the verge of bankruptcy in 1772. It is needless for me to multiply instances of our discontent, or to expose the contrariety of the causes we assign for them, especially as it is not my purpose either to vindicate the characters or conduct of our Viceroy, or to revive the public clamour against them ; all I mean to shew is, that the people have been uneasy under all administrations, and that, judging of the future by the past, there is no likelihood of their being content with any chief Governor, until the constitution of Ireland receives some improvement. This is a point of which I wish my countrymen

trymen to be fully convinced; for so long as they entertain a hope of seeing an administration to their mind, they will be apt to join in the cry raised by the factious against every chief governor, vainly flattering themselves, by his removal, to make way for their favourite; and thus, instead of lending their force to remove the cause, they will continue to be, as they have been, the dupes of designing and artful leaders, exclaiming against its necessary effects, without any public principle for the basis of their opinion; or any constitutional rule for the direction of their conduct. Let me then intreat my countrymen to consider this matter with serious attention, and then fairly say what are the public acts they wish to see take effect, and what are the measures they wish to see pursued by a chief governor,

governor, and I will appeal to their candour for confessing that neither those acts or those measures are to be expected from any chief governor so long as you consider yourselves, and are considered by England as a separate kingdom and having separate interests; can you hope to be deemed a dependence of the English crown only for the purpose of being protected by the English fleets and armies, and enjoying the advantages of the treaties and alliances procured by England, and be considered by her as an independent people in all other respects? Such notions are too absurd to be entertained by so sensible a people, and therefore I flatter myself you will give me your candid and serious attention, whilst I endeavour to trace the causes of your uneasiness, and point out the means of their removal.

To

To have the clearer view of this very important subject, it will be necessary to go back to the origin of the connection between England and Ireland, and to enquire into the motives which induced it, and the principles upon which it was founded.

From the imperfect accounts we have of the state of Ireland antecedent to the arrival of Henry the second, compared with what we know to have been the state of England at the same period, it is easy to prove that the introduction of the laws and customs of England into Ireland by that monarch was a considerable boon to the people of Ireland. The tenure by which the inhabitants hold their lands is in all countries a fair test of the freedom or despotism of the government, for where-ever the people have

have a right to be consulted upon acts of state, they never fail to use that right to secure to themselves a fixed property in their lands, which, next to the liberty of their persons, is deemed the most important consideration ; and indeed there is good reason it should be so considered, for personal freedom in a country where there is no certain property is no otherways beneficial than as it enables the inhabitants to remove out of it, and seek their fortunes under a better constitution of government.

Nothing could be more wretched than the ancient condition of the people of Ireland appears to have been in respect to property in their lands ; possession was the only rule of right among the inhabitants, and as by the custom of teneantry, the captain,

tain, or head of each sept, was elective, it is easy to suppose, that upon the succession of every new captain, room was to be made for the accommodation of his friends, by the removal of those of his predecessor or opponent; and as the same custom prevailed in the succession of their princes or kings, the continual wars, rapines, murders, and desolation, which we are told of, appear to be no more than the necessary effects of the barbarism of the constitution; what a blessing then was the introduction of feudal tenures to this people! and therefore it is not surprising that the great men of the island so universally and immediately embraced the offers of Henry, and relinquishing their former titles, consented to hold their principalities and domains of him as their feudal Lord; for by so doing they acquired for their children

children a right of inheritance, and continued their own possessions in their families; nor were their tenants less benefited by the change, as they were of course to hold their farms of their lords upon the like conditions; and of this they were made more secure, as well as in their personal estates and liberties, by the abolition of the Brehon law, and the introduction of the laws and customs of England in its room. Few of the laws of England, more than those of Ireland, were at this time written; but as in England all criminal, and the greatest part of civil causes were tried by juries of the vicinity, a perpetual memory of what was law was kept up among the people, and the rule which governed in a former case became a direction in all succeeding ones; and as all decrees and sentences were recorded in the county
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or manor rolls, a fixed and regular system of jurisprudence in course of time took effect in each county and manor ; in some instances, indeed, different from that which prevailed in others, but in nothing of great importance, as the superior courts which attended the king, and the itinerant judges had the control over all inferior courts, and we may well suppose took care to establish, as near as could be, an uniformity of proceeding among them. The Brehon law was on the contrary the most despotic and arbitrary that can be imagined ; every captain or chief of a sept appointed a brehon or judge to decide all causes, criminal and civil, among the people of his tribe. Causes between the people and the chief, were seldom brought, or if they were, it is not

not difficult to guess in whose favour they were decided; but the lord was not content to benefit by the decisions of the brehon in his own causes only, he was equally careful that some profit should accrue to him out of the suits of his tenants. Hence all rapes, felonies, murders, and other crimes, were made commutable for money, and punished only by fines to the lord, and some compensation to the party injured. As the brehon held his office at the good pleasure of the captain, and as every succeeding captain appointed his own brehon, we may well suppose that the interests of the party in possession were leaned to by the brehon, and indeed that his decisions were made the means of recompensing the services of the friends of the present chief at the expence of those of his predecessors. Hasty and unjust

unjust, therefore, are the censures of those zealous champions of what they think the privileges of Ireland, upon the want of sense and spirit in the natives to defend their own laws and possessions, and in meanly submitting both to the will of Henry, consenting to hold their lands of the crown of England, and to be governed by the English laws; for in fact they acted in this respect with more wisdom than we find any other people ever did in the like circumstances. They changed a mode of government and laws replete with tyranny and oppression, and productive of every enormity, for a constitution framed upon principles of equal right, and for laws which gave them security in their persons, and property in their possessions; but this was not all, for instead of submitting, as it is weakly and falsely alleged

ledged, to the condition of a people
 conquered by an invader, they stipu-
 lated for a common right with their
 invaders, not only to all the privileges
 they should enjoy in Ireland, but to
 a community of rights and privileges
 with them in their own country Eng-
 land. Where, let me ask these tra-
 ducers of our ancestors, shall we find
 in modern history a conquered peo-
 ple admitted to a community of
 rights and privileges with their con-
 querors? or, which of the many na-
 tions overcome by the Romans sti-
 pulated with that proud people, in the
 zenith of their power, for all the pri-
 vileges of Roman citizens? Yet this
 the people of Ireland did, with that
 great and mighty monarch Henry the
 second of England; they became in-
 corporated with the English, and were
 made one people with them, by an
 union, the most entire and perfect that
 can

can be conceived. Their king was the same, they held their lands by the same tenure, their laws were not similar but the same, their legislator was the same, their religion was the same; how happy would it have been for the people of both islands, but especially for those of Ireland, had this union proved as lasting as it was complete. What horrid scenes of wretchedness and misery would it have prevented! Rebellions, massacres, and devastations, would not have then filled every page of our shocking history, nor would the poverty of the bulk of our people have been, as it now is, our reproach among civilized nations; but on the contrary, participating with our brethren in England in every benefit of commerce, profiting by their wealth and skill in manufactures for the perfecting our own, deriving equal advantages with them from the increase
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of the colonies, and beneficial treaties with foreign states ; peace and plenty must have taken place of poverty and desolation, and the happiness and prosperity of Ireland would have been the envy of all nations. But Providence, which frequently uses the wickedness of one man as the instrument to punish the crimes of others, by permitting that monster of bigotry and deceit, Louis the VIIth of France, to call Henry into Normandy before he had seen his new constitution take effect, left the miserable natives to suffer by their new rulers, and each other for their former enormities.

When a new mode of government and new laws were to be introduced, it was highly requisite to appoint magistrates, well skilled in both, to administer them to the people ; but this Henry had not time to do, and there-

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fore it fell of course to the brehons to pronounce judgment, by laws which they were wholly unacquainted with, and to establish customs which they had never heard of. No provision seems to have been made for the tanist, or elected successor to the chief of each sept, and as each captain or head was now become a baron, and his barony descendable to his son, the tanist was barred of his succession, and without any compensation. It is unnecessary to look for other sources of mischief; these two were more than sufficient to deprive the people of Ireland of all the advantages the new constitution held out to them, and even to render it more odious in their eyes than their own; for as the tanist would naturally claim the succession by the old law, and the heir of his predecessor would endeavour to retain it under the sanction of the new tenure; and Henry the lord
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of the chief being absent, a civil war in every sept was the necessary consequence of the death of the chief. The tyranny and oppression of the chief, which the people hoped to have seen restrained by the English laws, were, on the contrary, increased under pretence of them ; for it was easy for him to direct his brehon to give a colour to the most iniquitous decision, by declaring it to be according to the English laws ; and it was in his own power to seize upon the possessions of any of his sept under pretence of their being forfeited to him by these unknown laws. Indeed when John became lord of Ireland, we find him endeavouring to remedy these evils by renewing the charter of Henry, and carrying over from England a number of learned judges, and appointing them to dispense the English laws to the people ; his own troubles, however,

soon took off his attention to the affairs of Ireland ; and it was the misfortune of this country, that those to whom its government was committed, in these early times, instead of labouring to draw the band of union still closer between England and Ireland, took every possible measure for separating the native Irish from the English, and their descendants who were settled here. It was their villainous policy to excite quarrels among the Irish chiefs, and then declare them rebels, and to seize upon their countries as forfeited by their treason ; and finding the brehon laws more convenient to their purposes of tyranny and oppression, they denied their wretched tenants the benefit of the laws of England, and forced them to resort to their brehon. In public and notorious violation of the great charter of Henry, confirmed by John, they set up a pale as a boundary

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dary between the possessions of the English and Irish inhabitants, and confined the jurisdiction of the English laws within the limits of that pale; nay, what was still more unjust, they denied the benefit of those laws to such of the descendants of the native Irish as dwelt within the pale. It is with pain I relate these iniquities of my countrymen; for it was *our* ancestors who practised them on each other. The descendants of the Lacleys, the Fitzgeralds, the Cavennaghs, the Courcys, and many more who may find themselves injured by the recital of the injustice done to those they take to have been their ancestors, by those they call English, ought to change the subject of their complaint, and lament that *their* ancestors were capable of such cruelty and injustice to *their* countrymen; neither the government or people of England were instrumental

mental in this wrong, any further than by neglecting to take proper measures for preventing it; and the unsettled state of those times, the continual disputes about the succession, and the wars on account of the territories in France, furnish excuses for that neglect. Equally malicious and absurd are the endeavours of those, who by an exaggerated account of these transactions, labour to excite in the present inhabitants of Ireland, resentment and ill will against their fellow subjects in England, as if it were the ancestors of the present English who inflicted these hardships upon the ancestors of the present Irish. No, my countrymen, let us not be deceived by such incendiaries; they were equally our own ancestors who perpetrated the cruelties with those who suffered them. Even such, whose names denote them to be of the native stock which first peopled this island, ought

ought to be cautious how they indulge their feelings against the cruel invaders; for their names are no security that their ancestors were not among the oppressors, as it became a practice with many of the descendants of the English, as Spencer informs us, to change their names, or alter them to Irish, in order to give a better colour to their refusing the benefits of the English laws to their tenants, and obliging them to submit to those called the brehon; neither have we better grounds to look upon all those whose names are not of Irish origin, as descendants of the invaders, for we find an act of the Irish parliament, held at Trim by the Earl of Desmond, in the year 1465, the 5th of Edward the IVth, requiring

“ every Irishman that dwelt in the
 “ counties of Meath, Unil, and Kil-
 “ dare, to take to him an English
 “ surname of one town, as Sutton,
 “ Chester,

“ Chester, Trim, Skryne, Cork, Kin-
 “ sale ; or colour, as White, Black,
 “ Brown ; or art or science, as Smith
 “ or Carpenter ; or office, as Cook,
 “ Butler.” And here it is proper I
 should take notice, that the chief of
 the hardships inflicted on the native
 Irish, and those which we are the
 most shocked at were the necessary
 consequences of the revival of the bre-
 hon law, for by that law, all crimes,
 as I have before observed, were com-
 mutable for money ; and, therefore,
 when we find a price was set upon
 the head of a native Irishman, and
 his murderer was acquitted upon the
 payment of that sum, we ought not
 to consider it as a single act of tyranny
 or cruelty, but impute it to its source,
 the refusal of the benefit of the Eng-
 lish laws, and the revival of that of
 the brehon ; and it is somewhat extra-
 ordinary, that the violent partizans of
 what

what they call the liberties of Ireland, who declame so loudly upon these barbarous doings, in the same breath impeach the authority of the English laws in Ireland, which alone made them criminal, and thereby render these very proceedings legal, if not justifiable. That the government in England was far from countenancing these proceedings of the administration in Ireland is evident, from the act or letters patent of the 17th of Edward the first, dated at Nottingham, in the year 1288, two and twenty years before the date of the first act passed by an Irish parliament, as printed in the collection of the Irish statutes. The preamble to this act declares it to be, *for the amendment of the government of our realm of Ireland, and for the peace and tranquillity of our people of the same land*; and, indeed, the enacting clauses very well correspond

correspond with the intention expressed in the preamble, for they prohibit the justice and all other officers of the crown from purchasing lands within their respective bailiwicks without special licence from the king. It commands that they should not take victuals, or any other thing, of persons against their will; that they should not arrest ships or goods of strangers or subjects; but, *that trade should be free and unrestrained between England, Wales, and Ireland.* And to correct this abuse of pardoning or commuting for murder, the king reserves to himself the power of pardoning in all such cases, and restrains his justice or chancellor from exercising that prerogative in future.

I am not writing the history of Ireland, altho' it is highly fit it should
be

be done by some one (*b*) ; for there is no civilized people upon earth who know so little of their own history or affairs as we of Ireland do of ours ; but I conceive it to be a good service to the public, to remove the prejudices which ignorance of the truth has laid us open to, and which prevail among us, even to this day, in a degree extremely injurious to the welfare of our country, and highly disgraceful to us, as an enlightened people ; for not content with the single absurdity of supposing that no intermixture has happened among the inhabitants of so small an island in six centuries ; a new mark of distinction has been borrowed from religion to supply that of descent,
which

(*b*) This was written before Dr. Leland's history was published. I am sorry its publication has not given me occasion to alter what I had written.

which might otherwise have been worn out in so many ages ; and altho' the reformation did not take place in England for 350 years after Henry's invasion of Ireland, yet the protestants of Ireland are weak enough to stigmatize the whole body of the Roman Catholics, as descendant of the antient Irish, and as such, are unwilling to allow them a community of rights and privileges with themselves : but that the antient inhabitants of this island were equally intitled to all the laws, rights, and privileges of Englishmen with the English adventureres, has been, I persuade myself, sufficiently proved ; and altho' the charters of Henry the second, and of his son John, granting those laws, rights, and privileges to the people of Ireland, had not the express consent or concurrence of the English barons or parliament ; yet I am bold to affirm that such consent or

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concurrence was not necessary, and the English statutes themselves afford abundant proofs that the parliament of England acquiesced in these acts of their kings, and considered the people of Ireland for 300 years afterwards as Englishmen, and intitled to a community with themselves in all their laws, rights, and privileges. It is difficult to avoid carrying with us our ideas of things as they appear at present, into the discussion of the practice that prevailed in antient times; and as we now see parliament the source of legislation, and vested with high, perhaps boundless, jurisdiction, we are apt to conceive that such has always been the case, in some degree at least. Laws too are now generally made to restrain the people, and give power to the officers of the crown; and parliament, instead of petitioning the king for privileges, is continually authorising the crown to

abridge

abridge the people's liberties in some instance or other ; but the truth is, the king and the parliament have changed places in latter times, and the fundamental maxims of government are entirely reversed. The doctrine, in former ages was, that all power was in the king ; the doctrine now is, that all power is derived from the people. Every liegeman was then in the power of the prince, and subject to his will, except where he could shew a grant or charter of the crown in his behalf. Now the king has no power over any man unless there be some law to give it to him. Instead of being assembled to signify their *acceptance* of the grace of the crown in the grant of a charter or law, parliament now meets of right, *propounds* and enacts laws, and presents them to the crown for assent ; and woe be to the advisers
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of the prince, if that assent be withheld. The expressions *legislative jurisdiction of parliament*, which are applicable to the present state of things, have no meaning when applied to former times. Parliament was then nothing more than an assembly of such of those who held lands in capite of the crown, as the king thought fit to call together by his writ, in order to *accept* on the part of the whole people, such laws or charters as the king might be pleased to *grant*, and in return, to signify the peoples *consent* to the king's levying, for his own use, a certain sum of money; how then was Henry obliged to have the consent of the English parliament to his granting to the people of Ireland all the laws which himself or his predecessors had granted to the people of England? Neither could he be restrained by any law or rule then in being,

ing, from calling, by his writ, certain of his Irish tenants in capite, to the assembly of his tenants, or parliament, in England, and receiving their *acceptance* of his laws in common with his English tenants, and their *consent* to the same subsidies also ; but whether the king thought fit to call any of his Irish tenants to these assemblies or not, the people of Ireland were equally entitled, with the people of England, to the benefit of the laws *accepted* by such assemblies ; or as the modern most improper phrase is, were equally *bound* by them : for the king was in no case obliged to summon *all* his tenants to such assemblies ; and as the states and people of Ireland had adopted the laws and government of England, they were thenceforward included in all the transactions of those assemblies ; for it was the law of England that those assemblies should *consent* for the whole people,

ple, and we find the fact corresponds with this doctrine ; for it appears manifest from the English statutes (which are always the best and surest guides to the national opinions,) down to the 1st of Henry the Vth, the year 1413, that this island was deemed a part of England, and it's inhabitants in all respects Englishmen. In all the acts for regulating trade, England, Ireland and Wales are coupled together, and the liberties and prohibitions extended to all alike. By the statute of the 11th of Edward the IIIrd. neither man or woman in England, Ireland, or Wales were to wear cloth, but of the manufacture of England, Ireland, or Wales, and of such parts of Scotland as were then in the King's power ; no foreign cloths might be brought into any of those countries ; none under a certain degree might wear furs ; all foreign clothworkers might come into

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any of those lands with safety, and have franchises granted them. By the 8th of Edward the III. wines of Gascoigny imported into England, Ireland, or Wales, are directed to be gauged. All people of England, Ireland, and Wales, that are not artificers, may pass into Gascoigny in virtue of the 43d of Edward the III. and purchase wines, provided they import them into England, Ireland, or Wales. The staple of wool, leather, fells, and lead, by the 27th of Edward the III. is appointed for England at Newcastle and nine other towns, at Carmarthen for Wales, and at Dublin, Waterford, Cork, and Drogheda, for Ireland; and all the wool, leather, fells, and lead to be exported out of any of those countries, are directed to be first carried to a staple town in the respective countries, and there sold to foreign merchants for gold or silver, but not
for

for foreign merchandise. Merchants of Ireland or Wales, by the 17th of Edward the III^d. are allowed to bring their merchandise to the staples in England, and sell them there without paying any but the Irish or Welch customs; because, says the statute, “*Forreigners do not so generally go to purchase at the Irish and Welch staples as they do to those of England.*” The 34th of Edward the III^d. accords that all the merchants, as well Aliens as Denizens, may come into Ireland with their merchandises, and from thence freely to return with their merchandises and victuals, without fine or ransom to be taken of them, saving always the King his antient customs and other duties. By the next chapter of the same act, it is enacted “*That the people of England, as well religious as other, which have their heritage and possessions in Ireland, may bring*

“ their corn, beasts, and victuals, to
 “ the said land of Ireland, and from
 “ thence to re-carry their goods and
 “ merchandises into England *freely*,
 “ without impeachment, paying their
 “ customs and devoirs to the king.”

By the 43d of the same Edward, the wool staple at Calais is taken away, but the former acts, appointing staples in England, Ireland, and Wales, are confirmed.

The act of the 5th of Richard the II^d. which is the first Essay of the English parliament towards a navigation act, prohibits the king's subjects from carrying forth or bringing in any merchandises, but only in ships of *the king's allegiance*. Neither Ireland or Wales are mentioned in any of the enacting clauses or chapters of the 14th of that king, but from the preamble it is evident that the regulations then made
 were

were to take place in those countries, as well as in England; the words of the preamble are, “ for the relief and “ increase of the common profit of the “ realm of England and *of the Lands “ of Wales and Ireland*, which have “ been in divers manners greatly hindered in times past, our lord the “ king, &c.” From henceforward we find no mention of Ireland in any statute, until we come to the 8th chapter of Henry the Vth. so that from the acts I have quoted, it is most evident that during this long period of near three centuries, and in the course of many reigns, England and Ireland were deemed by the king and parliament and people of England to be incorporated, and the inhabitants of the two islands to be one people, and equally intitled to the same immunities, and subject to the same restraints. Nor are there the smallest grounds to suppose
that

that there was any exception of the descendants of the native Irish from this community, and that only the English adventurers and their descendants were included in it ; for, on the contrary, all the terms which might lead to such ideas of distinction are carefully avoided, as the statutes never speak of *Irishmen*, but people of *Ireland*, which certainly includes the whole inhabitants. How wicked and ill-founded then, my countrymen, are those cruel aspersions upon the English government, which our hot-headed and ignorant zealots have thrown out, as if it was *they* who out-lawed the natives, and excluded them from the common rights of subjects, and even of men ? and how ought we to detest such base incendiaries, for endeavouring to create in us a jealousy and animosity against our English brethren, and to make the English government odious

odious to us by such notorious falsehoods and atrocious calumnies? you cannot possibly refuse to give credit to the evidence I have laid before you, and if you do not, it will be equally impossible for you to refuse your assent to this consequence which is so clearly deducible from it; namely, that during the whole period I have run over, it appears to have been the uniform purpose of the laws and government of England to abolish all distinctions among the inhabitants of Ireland, and to consider all as enjoying the rights and privileges of Englishmen. Who then, you will ask, if not the English government, created and fostered those cruel and unjust distinctions between one part of the inhabitants and the other? I answer freely, Irishmen; perhaps the descendants of Englishmen, Welchmen, Scotchmen, or Danes, but more especially our Irish rulers. Upon those,

those, and upon those only, is to be charged all the misery, wretchedness, and destructions that have befallen us. Before we had a parliament, we see by the act of the 17th of Edward 1st. that the conduct of our great men in power did not escape the notice of the English government, and that a wise and effectual measure was taken to put a stop to their oppressions upon our trade and exactions of office, as well as to deprive them of the power of making distinctions in cases of murder and felonies between one part of the people and the other, and pardoning or punishing according to that wicked rule they had made of allowing the English laws to the descendants of English only, and allowing the descendants of the native Irish no other than the brehon law. But when a parliament was once held in Ireland, the English government committed the care of the in-

inhabitants to it, and from thenceforth the English parliament did not once interfere with its domestic government or intermeddle in its affairs. How well the Irish parliament and those in power here pursued the beneficent and wise purposes of the English government, may easily be collected from the terms they made use of to distinguish the descendants of the native Irish from those they supposed to be descendants of the English adventurers, 170 years after the incorporation of the two nations by Henry the second, denominating the one *Irish enemies*, and the others *Englishmen*. Of this and of the cruel, violent, and illegal methods of proceeding with those unhappy men, whom they were pleased to confound under the general name of *Irish enemies*, the acts of the Irish parliament in the 25th of Henry the VIth. chapt. the

2d

2d and 3d, which I have copied in the margin (c) are shocking proofs.

There

(c) The 25th Henry the VIth. chap. 4th. enacts
 “ that he that will be taken for an Englishman
 shall not use a beard upon his upper-lip alone.
 The offender shall be taken as an Irish *enemy*.

“ For that now there is no diversity in any betwixt the English marchours and the Irish enemies, and so by colour of the English marchours the Irish enemies do come from day to day to other into the English counties as English marchours, and do rob and kill by the highways, and destroy the common people by lodging upon them in the nights, and also do kill the husbands in the nights, and do take their goods to the Irishmen; wherefore it is ordained and agreed, that no manner man that will be taken for an Englishman, shall have no beard above his mouth; that is to say, that he have no hairs upon his upper-lip, so that the said lip be once at least shaven every fortnight, or of equal growth with the nether lip. And if any man be found amongst the English contrary hereto, that then it shall be lawful to every man

to

There is good ground to believe,
from the style and tenor of the Irish
acts

to take them and their goods as Irish enemies, and
to ransom them as Irish enemies."

C H A P. V.

"Also for that divers Irish enemies be many times received by lieutenants and justices of this land to become liege men, and thereto are sworn to be loyal lieges during their lives; and after many times they do not perimplish the same, but do rob, burn, and destroy the king's liege people, and the same liege people, for fear to be impeached, dare not kill nor imprison the said enemies, nor take their goods nor chattles, whereby the said liege people do take great hurt and hindrance. It is ordained and established, that if any such Irish enemies, so received to the legiance of our sovereign lord, be found with any such offence aforesaid, that it shall be lawful to every liege man that may meet with them to do with the said Irishmen, so received to the legiance aforesaid, and to their goods and chattels, as to a man that never was become liege, without any impeachment of the law, notwithstanding any statute."

The

acts of these times, that they were passed by the deputy or lieutenant, without having been transmitted to England, or approved by the king; for it is not to be supposed that the English government would have consented to acts so directly contrary to the laws of England, or have suffered it to be declared by statute, as is done in that of 35th of Henry the VIth. chapter 3d. *that there were sundry persons in Ireland who were not amenable to the common law*; and indeed we find it is expressly declared in the preamble of the 11th of Elizabeth for confirming Poyning's act, that when liberty was given to the governors under her Majesty's

The 5th of Edward the IVth. chap 2d. "An act that it shall be lawful to kill any that is found robbing by day or night, or going or coming to rob or steal, having no faithful man of good name or fame in their company in English apparel."

jeſty's progenitors to call parliaments at
 their pleaſure, acts paſſed as well to
the diſhonour of the prince as to the hin-
derance of their ſubjects. It was the
abufe then of this liberty of making
 laws by the Iriſh parliament and chief
 governors that called for that now ob-
 noxious and bewailed act of the 10th
 of Henry the 7th, commonly called
 Poyning's act, which obliges the lieu-
 tenant, or deputy, and privy council of
 Ireland to repreſent to the king the
 neceſſity or expediency of holding a
 ſeſſion of parliament; and if we diſ-
 paſſionately examine the ſeveral acts
 which I have quoted as paſſed by Iriſh
 parliaments, antecedent to this king's
 reign, and compare them with thoſe
 which followed this reſtriction, I am
 confident it will appear that this re-
 ſtraint was neceſſary for the common
 good of the people of Ireland, and
 that it has been productive of benefi-
 cial

cial consequences to them. Indeed the several laws enacted in this reign shew an attention to the quiet and good government of Ireland, which is not discoverable in the Irish statutes of any preceding reign. The act *that no citizen receive livery or wages of any lord or gentleman*, was certainly highly necessary for the peace and prosperity of the city of Dublin, and the other cities and towns, if what we are told in the preamble be true, “ that it was
 “ usual for the citizens to be retained
 “ by certain lords and gentlemen, contrary to their own laws and customs;
 “ whereas they should take part with
 “ no man but only the part of their
 “ sovereign lord and his lieutenant for
 “ the time being, and to see their said
 “ cities and towns surely kept under
 “ due order and obedience, the which
 “ retainders, partaking, and division have
 “ been

“ been a great cause of all the trouble
 “ within the said land.”

The acts “ *that no person take any
 “ money or amends for the death or mur-
 “ der of his friend or kinsman other
 “ than the king’s laws will; that no per-
 “ son stir any Irishry to make war; that
 “ no peace in war be made with any man
 “ without licence of the governor; that
 “ for extirpation of a new manner of
 “ coin and livery; for abolishing the
 “ words Cramabo and Butterabo, and
 “ that whereby murder of malice pro-
 “ pense is made treason;*” all speak suffi-
 ciently for themselves; but there is
 something so expressive of the desire of
 government to restrain the violences of
 the great men, to protect the lower
 class, and do equal justice to all in the
 last mentioned act, that I cannot help
 reciting it. “ Forasmuch as there hath
 “ been *universal murder* by malice pro-
 “ pense,

“pense, used and had in this land by
 “divers persons contrary to the laws of
 “Almighty God and the king, *with-*
 “*out any fear or due punishment had in*
 “*that behalf*, be it enacted, &c. That
 “if any person or persons *whatsoever*
 “*estate, degree, or condition, he or they*
 “*be of*, of malice propense, do flee or
 “murder, or of the said malice pro-
 “voke, stir, or procure any other per-
 “son or persons to flee or murder *any*
 “*of the king's subjects* within this land
 “of Ireland, be deemed traitor attain-
 “ted of haute treason, *likewise as it*
 “*should extend to our said sovereign*
 “*lord's person, or to his royal ma-*
 “*esty.*”

The English act of the first of Hen-
 ry Vth. by which I limited my asser-
 tion that the island and people of Ire-
 land were, by the king and parliament
 of England deemed incorporated with
 England, marks no line of partition
 it

between the two islands, neither does it make any discrimination of the rights and privileges of the inhabitants, but inasmuch as it fixes an opprobrious stigma upon the natives of Ireland, and restrains them of that free intercourse with England which the incorporation of the two islands intitled them to; it must be allowed to indicate in the parliament of England an idea of distinction between the natives of Ireland and the natives of England: the like observation may be made upon the first of Henry VIth. chap. 3d, and the second Henry VIth. chap. 8th, which are properly amendments of the former act of Henry Vth. but altho' these acts unquestionably set up a distinction between the natives of the two islands, yet they do not appear to have been followed by any others of a similar nature; nor indeed is there to

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be found upon the statute roll down to the 15th of Charles the II^d. a single act for laying any partial restraint upon the trade or manufactures of Ireland, or imposing any duty upon the manufactures, products, or merchandise of Ireland, when imported into England. On the contrary, all the laws respecting trade passed in the several reigns antecedent to the restoration, convey to the people of Ireland the same advantages which they confer on the people of England. The third of Edward the IVth, which declares certain “Merchandises not lawful to be brought ready wrought into England, has this proviso, that all wares and chaffres made and wrought in the land of Ireland or Wales, may be brought and sold in this realm of England, *as they were wont*, before the making of this statute, this act
or

or statute notwithstanding." The first of Henry VIIIth enacts, That no Gascoign or Guien wines be brought in but by English, *Irish*, and Welchmen, and by their ships.

The 4th of that king enacts, " that
 " no person of whatsoever degree con-
 " vey or bring into this realm, Ire-
 " land, Wales, Calais, or Berwick,
 " any manner of wines or Tholouse
 " wood, but in ships owned by the
 " king or some of his subjects of his
 " realm of England, *Ireland*, Wales,
 " Calais, or Berwick, and the master
 " and mariners being Englishmen,
 " *Irishmen*, or Welchmen, or of Ber-
 " wick or Calais."

The first of Henry the VIIIth. chap.
 5th, declares that " every Englishman
 " *and all other the King's* subjects may
 " enter

“ enter the goods of another English-
 “ man, or the king’s subjects, in any
 “ port in England, Ireland, &c.”

The 23d of this king confirms the before mentioned statute of Henry the VIIth. respecting wines and wood, and in the 5th and 6th of Edward the VIth. it is repealed.

The 8th of Elizabeth, chap. 3d. inflicts a penalty upon carrying out of England, Wales, or *Ireland*, over sea, any rams, lambs, or sheep alive. The 43d of this reign prohibits the stretching woollen cloths within her Majesty’s realm of England, or the dominions of the same.

The 2d of James the Ist. forbids to employ in hatmaking any person born out of his Majesty’s realms and domi-
 nions

nions of England, Scotland, and *Ireland*.

Another act of the same year permits, under certain restrictions, any persons, *being subjects of the King's Majesty*, to transport corn in any ship whereof any English born *subject* shall be the owner. The act of the third of this king, chap. 6th, for enabling all his Majesty's loving subjects of England and Wales to trade freely into the dominions of Spain, Portugal, and France, has a preamble so expressive of the sense parliament had of the common right of the king's subjects to a free trade, and abhorrence of a monopoly, that I shall recite it at full length,

“ Whereas divers merchants have of
 “ late obtained from the king, under
 “ the great seal of England, a large
 “ charter of incorporation for them
 “ and

“ and their company to trade into the
 “ dominions of Spain and Portugal,
 “ and are most earnest suitors to obtain
 “ the like for France, whereby none
 “ but themselves and such as they shall
 “ think fit shall take benefit of the said
 “ charter, disabling thereby all others
 “ his Majesty’s loving subjects *of this*
 “ *realm of England and Wales*, who
 “ ought *indifferently* to enjoy all the
 “ benefits of this most happy peace,
 “ *and also debarring them from that free*
 “ *enlargement of common traffic into*
 “ *those dominions which others his Ma-*
 “ *jeſty’s ſubjects of this realm of Scot-*
 “ *land and Ireland do enjoy.*”

Theſe, together with thoſe which I
 beforementioned, are the only laws re-
 ſpecting trade that I find to have been
 made in England before the reſtoration,
 and it is moſt evident from the extracts
 which

which I have given, that the legislatures which enacted them clearly held the inhabitants of Ireland to be intitled to all the privileges and immunities enjoyed by the inhabitants of England; but as commerce now became a principal object of the attention of the English parliament, a spirit of monopoly and exclusion of others, which a love of trade never fails to generate, discovers itself in all their future measures, and Ireland is no longer considered as a part of England, and incorporated with it, but it is henceforth regarded as the competitor instead of the sister of England, and all its commercial advantages viewed with partial and jealous eyes. Other causes, besides the selfish nature of trade, were not wanting to create a breach in the union of the two islands; the vanity of Henry the VIIIth. in taking the title of King of Ireland,

Ireland, and by consequence erecting the island into a kingdom, had no small share in the mischief; for this fatal name of kingdom, whenever it was founded in the ears of a native of England, could not but excite in him ideas of a distinct state or dominion, having interests and views peculiar to itself, separate from, and incompatible with the views and interests of England. The repugnance which the Roman Catholics of Ireland had always shewn since the Reformation to the English government, and their then late horrid massacre of those they deemed the descendants of Englishmen, must also have greatly served to strengthen this jealousy in the people of England, and the number of settlers which had flowed into Ulster from Scotland, whose principles Charles and his loyal parliament equally disliked, was no small

small inducement for them to countenance by law the popular prejudices.

What happened to Wales in the reign of Henry IVth. gives weight to these suggestions ; for the people of that principality having supported Earl Mortimer's title, Henry and his party in revenge procured several acts of parliament to be passed, by which Wales and its inhabitants were separated and cut off from England and the rights of Englishmen, nor was that country reunited to England, and its inhabitants restored to their privileges, until the reign of Henry the VIIIth. The case of Scotland in later times affords another proof of the mischievous effects of prejudice and jealousy ; for immediately after the restoration of Charles, that free trade and communication with

F England

England and its dominions, which had been allowed to Scotland from the accession of James was abridged, and Scotland and Scotchmen laid under the same disabilities in respect to trade as foreigners. It was however the happiness of Wales to have no distinct government of its own, to continue the jealousy of England by its ridiculous attempts at independency ; and Scotland, by relinquishing her separate legislature, and absorbing it in that of England, by that one act, the wisest she ever did, removed for ever all the bars and obstructions to her intercourse and commerce with England and its dominions, and became intitled to all the benefits, rights, and immunities, that the power, wealth, and wisdom of England had for many ages been acquiring.

Should

Should my countrymen refuse to profit of these examples, from an unwillingness to absorb their local legislature in that by which the whole empire is governed, still there are other means they may employ to recover their former situation,

F I N I S.

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